

# UNITED STATES DISTRICT COURT

for the  
District of Massachusetts

## SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: JOSHUA GAY  
9 Ellery Street #32  
Cambridge, MA 02138

**YOU ARE COMMANDED** to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: Grand Jury Room, 10th Floor John Joseph Moakley Federal Courthouse 1 Courthouse Way Boston, MA 02210	Date and Time: 05/26/2011 11:00 am
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You must also bring with you the following documents, electronically stored information, or objects *(blank if not applicable)*:

SEE ATTACHMENT

If you have any questions, please contact Special Agent Michael Pickett with the U.S. Secret Service at 617-565-5640.

Date: 05/06/2011



CLERK OF COURT

*Sarah Alliea Thronton*

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

AUSA: STEPHEN P. HEYMANN  
John Joseph Moakley  
United States Attorney's Office  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
Telephone: 617-748-3181

**PROOF OF SERVICE**

This subpoena for *(name of individual or organization)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process in behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:  
For personal appearances only:  
Fact witness travel and reimbursement instructions are attached.  
If you have travel or reimbursement questions call witness travel coordinator  
Janet Smith at 617-748-3167.  
  
For after business hour emergencies, call 617-748-3100.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

## Attachment A

You are required to produce all documents, records and data relating to, regarding or referring to the following:

- Geurilla Open Access
  - (1) Materials used on the Geurilla Open Access Facebook page;
  - (2) The Guerilla Open Access Manifesto;
  - (3) Written, oral and electronic communications concerning the Guerilla Open Access Manifesto.
- Written, oral and electronic communications with Aaron Swartz, [REDACTED] and/or [REDACTED];
- Electronic downloading, transfer, distribution, uploading to file sharing sites and/or storage of scientific journal articles;
- guerillaopenaccess.com, guerillaopenaccess.net and/or aaronsw.com
- JSTOR, including, without limitation,
  - (1) Jstor.org;
  - (2) Journals documents, records and data digitized by JSTOR,
  - (3) Journals, documents, records and data stored by JSTOR;
  - (4) Journals, documents, records and data originating at JSTOR;
  - (5) Means of access to JSTOR;
  - (6) Computer software capable of making repeated requests

- for documents, records and data from JSTOR;
- (7) Computer software capable of making repeated downloads of documents, records and data from JSTOR.

For the purpose of this subpoena, "documents, records and data" include, without limitation, all written, printed, typed, photographed, recorded or otherwise reproduced or stored communications or representations, whether comprised of letters, words, numbers, pictures, sounds or symbols, or any combination thereof, whether deliberately, inadvertently or automatically stored. "Documents, records and data" include copies or duplicates of documents contemporaneously or subsequently created which have any non-conforming notes or other markings and the backsides of any communications or representations which contain any of the above, and all deleted files and e-mails which are available from system back-ups.

By way of example, "documents, records and data" include, but are not limited to: electronic mail; instant messages; computer files; correspondence; memoranda; notebooks; notes; drafts; records; letters; envelopes; telegrams; messages; descriptions; plans; schematics; diagrams; drawings; specifications; analyses; agreements; accounts; checks; bank statements; payroll records; contracts; employment agreements; working papers; reports and summaries of investigations; trade letters; press releases; comparisons; books; notices; drawings; diagrams; instructions; manuals; calendars; diaries; articles; magazines; newspapers; brochures; guidelines; notes or minutes of meetings or of other communications of any type, including inter- and intra-office or company communications; questionnaires; surveys; charts; graphs; photographs; files or videos; tapes; discs; data cells; bulletins; printouts of information stored, maintained, or

transmitted by electronic data or word processing equipment; electronic claims filing and transmittals; invoices; and all other data compilations from which this information can be obtained including optical and electromagnetically sensitive stored media.

Please provide all documents, records, data, files and logs electronically.

### **Advice of Rights**

- The grand jury is conducting an investigation of possible violations of Federal criminal laws involving: 18 U.S.C. § 1030(a)(2) (intentionally accessing a computer without authorization and obtaining information with a value that exceeds \$5,000), 18 U.S.C. § 1030(a)(4) (accessing a protected computer without authorization or exceeding authorized access with intent to defraud), 18 U.S.C. § 1030(a)(5)(A) (intentionally causing damage without authorization to a protected computer) and 18 U.S.C. § 1343 (wire fraud).
- You may refuse to answer any question if a truthful answer to the question would tend to incriminate you.
- Anything that you do say may be used against you by the grand jury or in a subsequent legal proceeding.
- If you have retained counsel, the grand jury will permit you a reasonable opportunity to step outside the grand jury room to consult with counsel if you so desire.